

## Title 35 Mississippi State Tax Commission

### Part X Economic Development

#### Chapter 01 Jobs Tax Credit

- 100 Income tax credits are available for:
1. Permanent business enterprises that are primarily engaged in manufacturing, processing, distribution, wholesaling, research and development and warehousing.
  2. Permanent business enterprises designated by rule or regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of 150 guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunication enterprises, data or information processing enterprises, computer software development enterprises or any technology intensive facility or enterprise.

- 101 For the purposes of this credit, the counties in Mississippi are classified as Tier Three (less developed), Tier Two (moderately developed), and Tier One (developed). The counties are evaluated and ranked each year based on the unemployment rate and per capita income of each county for the most recent 36 month period. They are then divided into the three previously mentioned groups with one-third of the counties in each group. The classification for a specific county can change from year to year based on this evaluation.

- 102 This classification is used to determine the minimum number of jobs a business enterprise must create in a given year before it qualifies for the credit. It is also used to determine the amount of credit per job created. The dollar credit per employee and the job levels for each county classification are as follows:

<u>County Classification</u>	<u>Minimum Annual Increase in Number of Jobs</u>	<u>Credit per Job</u>
Tier One	20	\$ 500 per year
Tier Two	15	\$1,000 per year
Tier Three	10	\$2,000 per year

- 103 The jobs tax credit was instituted to encourage construction or expansion of facilities in Mississippi in order to increase employment. The credit is for each net new full time job created as long as the minimum increase has been achieved and maintained. The credit is allowed each year for 5 years beginning in years 2 through 6 after the creation of the job. The unused portions can be carried forward for up to 5 years from the original year in which the excess credit could not be used, but you may use the oldest year's unexpired credit first. They may be used in combination with any of the other credits.

- 104 For example, a manufacturer expands and creates 50 new jobs in a Tier One county. The year the jobs are created is year 1. The credit may be used in years 2 through 6 on the taxpayer's return. Credit is allowed each year (years 2 - 6) for the 50 jobs created, plus any unused credit that has been carried forward, but the credit used to reduce the tax actually paid is limited to 50% of the income tax due.

- 105 After a taxpayer has qualified for the credit, the credit is not allowed for a year if the net employment increase falls below the minimum required for qualification. The credit is only lost for the year(s) that the taxpayer is below the minimum. A recapture of credit taken in previous year(s) is not required. If the taxpayer's employment level increases back above the minimum, then the taxpayer may use the credit for the remainder of the period, however, the original five year period for the credit (years 2 through 6) is not extended. A taxpayer can only earn credit at a given level of employment for one (1) five (5) year period.
- 106 To determine whether a taxpayer with an existing facility, including an expansion at an existing facility, has created the minimum number of jobs to qualify for the credit, the taxpayer must compare the average annual employment level for the previous year with the average annual employment in the current year. If the amount of the increase exceeds the minimum required, then the employer would qualify for the credit. This allows the credit to employers who have not constructed a new facility, but have substantially increased employment at an existing facility.
- 107 To determine whether a taxpayer with a new facility qualifies for the credit, the average employment for the portion of the year after production was started should be compared with the same period for the previous year. If the increase exceeds the minimum, then the taxpayer would qualify for the credit. For example, a calendar year taxpayer begins doing business in Mississippi and constructs a new facility that starts up on June 1, 1998. To determine whether the taxpayer qualifies for the credit, June through December of 1998 should be compared to June through December of 1997. If the increase meets the minimum requirement, then the taxpayer would qualify for the credit.
- 108 The amount of increase in jobs to qualify for the credit must occur within 1 year. They may not be accumulated over several years. The credit is allowed for net new full time jobs. Part time jobs may not be aggregated to create full time jobs.
- 109 If an employer plans to construct a new facility or expand an existing facility in a Tier Three or Tier Two county, then the employer may complete the certification application and make a request in a letter that the current designation of the county be retained in relationship to the expansion. This allows an employer to retain the county designation and the amount of anticipated credit that was in effect for the expansion.
- 110 Construction must begin within one (1) year of the certification or it is no longer valid. This initial certification is only good for the credits generated during years two (2) through six (6) after start up of the plant or expansion. This certification to "lock in" the county's classification will not be granted retroactively. For subsequent qualification and credit for increases in employment, the county designation in effect at that time should be used to determine the qualification and the amount of the credit.
- 111 If an employer has qualified for the credit but then reduced employment levels through layoffs or plant closures, the reduction in employment must continue for a minimum of five (5) years before the employer may use the reduced employment levels in the computation

of additional credit. If the reduction in employment is for five (5) years or more, then the employer may requalify for the credit on any additional jobs. If the reduction has continued for less than five (5) years, then the employer may requalify in very limited circumstances. Example - if an employer laid off employees because one (1) line of business (such as automotive parts) has been discontinued, but subsequently increased employment because another line of business (such as furniture manufacturing) was started, then the employer may receive the credit for the increase in employment. Such situations will be considered on a case by case basis. The taxpayer should submit a letter with a request to receive the credit and a justification for the request. The credit will be granted at the discretion of the Tax Commission.

- 112 The sale, merger, acquisition, reorganization, bankruptcy or relocation from one county to another county within the state of any business enterprise may not create new eligibility in the current or any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise. The Tax Commission shall determine whether qualifying net increases have occurred or proper transfers of credit have been made and may require such information as needed for substantiation and qualification.
- 113 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 114 The total of the Jobs Tax Credit, the Headquarters Credit and the Research & Development Skills Credit is limited to 50% of the Mississippi income tax liability. The credit is not refundable.
- 115 No business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive this credit.
- 116 To apply for this credit: You do not have to submit a certification application for this credit, unless you want to "lock in" the county classification related to constructing a new facility, but you must attach Form 70-801 showing the computation to the return.
- 117 This credit is authorized under Sections 57-73-21(2), 57-73-21(3) and 57-73-21(4) of the Mississippi Code of 1972, as amended.
- 118 This regulation is effective January 1, 2001.
- 119 (Reserved)

## **Chapter 02 National or Regional Headquarters Credit**

- 100 A credit is available to any company transferring or establishing a national or regional headquarters from within or outside the State of Mississippi and creating a minimum of thirty-five (35) jobs at the headquarters. The amount of the credit is \$500.00 for each net new full time employee for the first five (5) years. The minimum increase of thirty-five (35) jobs must occur within one (1) year.
- 101 If the headquarters is transferred or established after January 1, 2001, the amount of the credit is increased to \$1,000.00 provided the employee's salary (excluding benefits not subject to Mississippi income tax) is 125% of the average annual wage of the state. If the employee's salary (excluding benefits not subject to Mississippi income tax) is 200% of the average annual wage of the state, the credit is increased to \$2,000.00 for that employee. The average annual wage is the most recently published average annual wage as determined by the Mississippi Employment Security Commission.
- 102 Any type business may qualify for the credit as long as the other criteria are met, but a national or regional sales office does not qualify for the credit.
- 103 A national headquarters is that office or location of a multi-state business, where managerial, professional, technical and administrative personnel are domiciled and employed. It is the location where the centralized functions such as financial, legal, technical and personnel functions are performed. The function and purpose of the national headquarters is to plan, direct and control all aspects of the organization's operations and it has final authority over all regional offices, operating facilities or any other offices of the business enterprise. The national headquarters is subordinate only to the ownership of the organization or its representatives.
- 104 A regional headquarters is one of several management offices or facilities of a multi-state business that is responsible for planning, directing and controlling all aspects of the business operations within a sub-divided area of the United States. A regional headquarters performs a function that is separate from the management of operational facilities within the region. A regional headquarters performs functions similar to the national headquarters, but within a more limited area. It has final authority over all matters within its region and is subordinate only to the national headquarters.
- 105 Before the credit is granted, the taxpayer must show that the headquarters will have officers and other high level employees with the support staff normally associated with a headquarters. The support staff for the headquarters is also included in the computation of the credit. The support staff are those full time employees required to assist management and other headquarters personnel to perform functions that are unique to, or required by, the headquarters operation. The classification of support personnel as headquarters employees is dependent on their duties being in direct relationship to the functions of the office or facility and not solely on their physical presence at the location.
- 106 Companies that transfer full time headquarter employees into the state that are employed in Mississippi for less than twelve (12) months will be allowed a pro-rated portion of the yearly credit in the first and last years. The amount of the credit is pro-rated based on the

number of months the employee is employed in this state divided by twelve (12). To be used in the credit computation, the employee must be located in Mississippi and subject to withholding tax.

- 107 The total of the Jobs Tax Credit, the Headquarters Credit, and the Research & Development Skills Credit is limited to 50% of the Mississippi Income Tax liability. The unused portions can be carried forward for up to 5 years from the original year in which the excess credit could not be used, but you may use the oldest year's unexpired credit first. They may be used in combination with any of the other credits.
- 108 The sale, merger, acquisition, reorganization, bankruptcy or relocation from one county to another county within the state of any business enterprise may not create new eligibility in the current or any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise. The Tax Commission shall determine whether qualifying net increases have occurred or proper transfers of credit have been made and may require such information as needed for substantiation and qualification.
- 109 No business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive this credit.
- 110 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 111 The credit is not refundable.
- 112 To apply for this credit:
1. Before the headquarters is transferred, you must submit a certification application and a letter to request the credit with sufficient information to allow a determination of whether the location qualifies as a national or regional headquarters. You must also furnish a list of employees with job responsibilities and job descriptions to justify the credit. A letter of authorization will be issued if the credit is granted.
  2. You must attach a copy of the letter giving authority for the credit and a schedule of computation to the return.
- 113 This credit is authorized under Section 57-73-21(5) of the Mississippi Code of 1972, as amended.
- 114 This regulation is effective January 1, 2001.
- 115 (Reserved)

116 (Reserved)

### **Chapter 03 Research and Development Skills Credit**

- 100 For employees hired prior to January 1, 2001, a credit of \$500.00 is available for each net new full time employee in any job requiring research and development skills for the first five (5) years. If the employee was hired after January 1, 2001, then the credit for that employee is \$1,000.00. The employee has to be engaged in research and development activity. Qualification of jobs for this credit would require at a minimum, a Bachelors degree in a scientific or technical field of study from an accredited four (4) year college or university, employment in the employees area of expertise, compensation at a professional level and two years of related job experience. Examples are chemist and engineers. This credit is available to any company regardless of the business in which it engages.
- 101 A business interested in qualifying for the research and development skills credit should request approval in writing and provide the following information for each employee and position.
1. Title of the job
  2. Purpose of the job
  3. Education requirements for the job
  4. Experience requirements for the job
  5. Hours worked per week
  6. Salary or compensation
  7. Expected hire date
- 102 The applicant will be notified on approval of the application for credit. Credit should not be taken until approval is received by the taxpayer. If the employee is employed in Mississippi for less than twelve (12) months, credit will be allowed for a pro-rated portion of the yearly credit in the first and last years. The amount of the credit is pro-rated based on the number of months the employee is employed in this state divided by twelve (12). To be used in the credit computation, the employee must be located in Mississippi and subject to withholding tax.
- 103 The total of the Jobs Tax Credit, the Headquarters Credit, and the Research & Development Skills Credit is limited to 50% of the Mississippi Income Tax liability. The unused portions can be carried forward for up to 5 years from the original year in which the excess credit could not be used, but you may use the oldest year's unexpired credit first. They may be used in combination with any of the other credits.
- 104 The sale, merger, acquisition, reorganization, bankruptcy or relocation from one county to another county within the state of any business enterprise may not create new eligibility in the current or any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise. The Tax Commission shall determine whether qualifying net increases have occurred or proper transfers of credit have been made and may require such information as needed for substantiation and qualification.

- 105 No business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive this credit.
- 106 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit.
- 107 The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 108 The credit is not refundable.
- 109 To apply for this credit:
1. Before any credit is taken on a return, you must send a letter to request the credit with sufficient information to allow a determination of whether the employee qualifies for the credit. If there are several employees, you may attach the information in a list with the letter of request. The credit should not be taken until a letter of authorization is issued.
  2. You must attach a copy of the letter giving authority for the credit and a schedule of computation to the return.
- 110 This credit is authorized under Section 57-73-21(6) of the Mississippi Code of 1972, as amended.
- 111 This regulation is effective January 1, 2001.
- 112 (Reserved)
- 113 (Reserved)

#### **Chapter 04 Basic Skill Training or Retraining Tax Credit**

- 100 An income tax credit is allowed to employers that are:
1. Permanent business enterprises that are primarily engaged in manufacturing, processing, distribution, wholesaling, research and development and warehousing.
  2. Permanent business enterprises designated by rule or regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of 150 guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunication enterprises, data or information processing enterprises, computer software development enterprises or any technology intensive facility or enterprise.
  3. Employers that have qualified for the national or regional headquarters credit.

- 101 The credit allowed is 50% of qualified expenses not to exceed 50% of the income tax liability. Any excess credit will not be refunded, but may be carried forward for up to 5 years. The program must be certified for a specific number of years not to exceed 5 years.
- 102 To qualify for the credit, the basic skills training or retraining must be offered through, or be approved by, the community or junior college in the district where the business is located. Employers must be certified as eligible for the tax credit by the local community or junior college that serves the employer and the Mississippi State Tax Commission. The training does not have to be on the community or junior college campus to qualify, if it is sponsored and approved by the college. A copy of the certification must be furnished to the Tax Commission by the taxpayer when the certification is granted. When a return is filed on which the credit is taken, a schedule showing the expenses and computation of the credit, and a copy of the certification must be attached to the return.
- 103 The credit may be available for basic skills training that enhances reading, writing or math skills up to the twelfth grade level for employees who are unable to function effectively on the job due to deficiencies in these areas or who would be displaced because such skill deficiencies will inhibit their training for new technology. The credit may also be available for retraining programs for hourly employees that have been employed for a minimum of 1 year by the employer and if upon successful completion, the retraining increases the employee's opportunity for consideration for promotion or retention with the employer. For either type of training to qualify for the credit, it must be job related and increase opportunities for employee advancement or retention.
- 104 The training or retraining credit cannot exceed \$2,500 in the aggregate per employee for a 3 year period.
- 105 A list of the community colleges and the cities where the main campuses are located are as follows:
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|--|-------------|
| 1. Coahoma Community College                 | Clarksdale  |
| 2. Copiah-Lincoln Community College          | Wesson      |
| 3. East Central Community College            | Decatur     |
| 4. East Mississippi Community College        | Mayhew      |
| 5. Hinds Community College                   | Raymond     |
| 6. Holmes Community College                  | Goodman     |
| 7. Itawamba Community College                | Tupelo      |
| 8. Jones Junior College                      | Ellisville  |
| 9. Meridian Community College                | Meridian    |
| 10. Mississippi Delta Community College      | Moorhead    |
| 11. Mississippi Gulf Coast Community College | Perkinston  |
| 12. Northeast Mississippi Community College  | Booneville  |
| 13. Northwest Mississippi Community College  | Senatobia   |
| 14. Pearl River Community College            | Poplarville |
| 15. Southwest Mississippi Community College  | Summit      |



- 106 The credit is applied to qualified training or retraining expenses, which are expenses related to instructors, instructional materials and equipment, and the construction and maintenance of facilities by such employer designated for training purposes which is attributable to training or retraining provided through such community or junior college or training approved by such community or junior college. The qualified expenses are net of any reimbursement.
- 107 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credit. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 108 The Basic Skills Training or Retraining Tax Credit may offset up to 50% of the income tax due. It may be used in combination with any of the other credits.
- 109 The credit is not refundable. An expense cannot be used both as a credit and a deduction. If a credit is based on an expense, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used.
- 110 This credit is authorized under Section 57-73-25 of the Mississippi Code of 1972, as amended.
- 111 This regulation is effective January 1, 2001. The law is automatically repealed from and after July 1, 2002.
- 112 (Reserved)
- 113 (Reserved)

#### **Chapter 05 Rural Economic Development (Red) Credit**

- 100 An income tax credit is available for debt service on certain bonds issued by the Mississippi Business Finance Corporation. Debt service may include the total amount paid to service the debt. This credit is also known as the Mississippi Business Finance Corporation Revenue Bond Service Credit.
- 101 Only debt service paid on revenue bonds issued by the Mississippi Business Finance Corporation to finance economic development projects to induce the location of manufacturing facilities within this state can be taken as a credit. This credit can be used against the taxes due from the income generated by or arising out of the economic development project. The bonds that qualify for this credit are the bonds issued under the authority of Sections 57-10-401 through 57-10-439 of the Mississippi Code of 1972.

- 102 For more information on the benefits of this program contact the Mississippi Development Authority, Post Office Box 849, Jackson, MS 39205-0849.
- 103 This credit has been amended several times and the credit carry forward periods will vary. Currently, excess credits may be carried forward to the three (3) succeeding years following the year in which the credit was earned. The credit is limited to eighty percent (80%) of the income tax due on income generated by the economic development project that gave rise to the credit. This income is determined by a formula adopted by the Mississippi Business Finance Corporation. It may be used in combination with any of the other credits.
- 104 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 105 The credit is not refundable. An expense cannot be used both as a credit and a deduction. If a credit is based on an expense, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used.
- 106 To apply for this credit: You do not have to apply for this credit, but you must attach a schedule of computation of the current year's credit and expenses that created the credit. You must also attach a schedule of credits used in prior years with any carry forward amounts showing the amounts used and carried forward by year.
- 107 This credit is authorized under Section 27-7-22.3 of the Mississippi Code of 1972, as amended.
- 108 This regulation is effective January 1, 2001.
- 109 (Reserved)
- 110 (Reserved)

#### **Chapter 06 Ad Valorem Credit**

- 100 An income tax credit is available for ad valorem tax paid on commodities, goods, wares and merchandise held for resale by manufacturers, distributors, and wholesale or retail merchants. The credit is limited to the lesser of \$5,000 per location or the income tax attributable to the location. For the credit to be taken, the ad valorem tax must be determined by specific location. Within these limitations, this credit may offset up to 100% of the income tax due. It may be used in combination with any of the other credits.

- 101 The credit may be claimed only in the tax year in which the ad valorem taxes are paid. A carryforward is not available.
- 102 A copy of the tax receipt from the county, city or school district that shows the inventory valuation and a schedule showing the calculation by location of the ad valorem tax paid based on the valuation must be attached to the return.
- 103 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 104 The credit is not refundable. An expense cannot be used both as a credit and a deduction. If a credit is based on an expense, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used.
- 105 To apply for this credit: You do not have to apply for this credit ahead of time, but you must attach a copy of the tax receipt to your return to claim this credit. If you have more than 5 locations, you should attach 5 receipts and a schedule of all receipts including the ones attached.
- 106 This credit is authorized under Section 27-7-22.5 of the Mississippi Code of 1972, as amended.
- 107 This regulation is effective January 1, 2001.
- 108 (Reserved)

## **Chapter 07 Child/Dependent Care Credit**

- 100 An income tax credit is allowed to any employer providing dependent care for its employees during the employee's working hours. The credit allowed is 25% of qualified expenses. Starting January 1, 1998 the credit allowed is 50% of qualified expenses. This credit can offset up to 100% of the income tax due from the entity. Any excess credit will not be refunded, but can be carried forward for up to five (5) years.
- 101 An employer must have its child care program certified by the Department of Health for programs serving children twelve (12) years of age or younger and for programs serving elderly adults. The State Tax Commission certifies programs serving dependents older than twelve (12) years of age. To request certification from the Tax Commission, the employer should submit a letter explaining the employer's child care program and specifically requesting certification for child care credit. A copy of the certification from the Department of Health must be furnished by the taxpayer to the Tax Commission when the certification is granted. Information concerning the Department of Health's certification

may be obtained at the following office: Mississippi State Department of Health, Division of Child Care and Special Licensure, Post Office Box 1700, Jackson, MS 39215-1700.

- 102 To qualify, the facility must have an average daily enrollment for the taxable year of no less than six (6) children who are twelve (12) years of age or younger and be licensed according to the regulations governing licensure of child care facilities in Mississippi; or must serve five (5) or fewer children and/or elderly adults in a family child care/elder care home approved by the Department of Health for participation in the United States Department of Agriculture child and adult nutrition program; or must serve children over twelve (12) years of age but less than eighteen (18) years of age in either a community-based facility or a facility at the employment site; or must serve adult relatives of employees in either a community based elder-care facility or a facility at the employment site; or must serve children or adult dependents having physical, emotional or mental disabilities in either a community-based facility or a facility at the employment site.
- 103 The net cost of any contract executed by the employer for a third party to provide dependent care is a qualified expense. If the employer elects to provide dependent care directly, then the qualified expenses are expenses for staff, learning and recreational materials and equipment, and cost associated with the construction and maintenance of a facility. Additional eligible expenses include costs assumed by the employer which increases the quality, availability and affordability of dependent care in the community used by employees during the employee's work hours. For facilities and equipment, the eligible expense is the amount of depreciation expense allowable in computing taxable income. These cost are net of any reimbursement.
- 104 Any unused credit may be carried over for 5 years. An expense cannot be used both as a deduction and as the basis for a credit. **Any expense used in computing the allowable credit cannot be taken as a deduction.** The expense must be added back to Mississippi taxable income.
- 105 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 106 The credit is not refundable. The Child Care Credit may offset up to 100% of the tax due. It may also be used in combination with any of the other credits.
- 107 To apply for this credit: You must have had your program previously certified and have furnished a copy of the certification to the Tax Commission. You must attach a schedule showing the computation to the return.
- 108 This credit is authorized under Section 57-73-23 of the Mississippi Code of 1972, as amended.

109 This regulation is effective January 1, 2001.

110 (Reserved)

111 (Reserved)

## **Chapter 08 Export Port Charges Credit**

100 An income tax credit is available to taxpayers that utilize port facilities at Mississippi State, county and municipal ports or harbors as established pursuant to Sections 59-5-1 through 59-9-5-69, Sections 59-7-1 through 59-7-519, Sections 59-9-1 through 59-9-85 or Sections 59-11-1 through 59-11-11.

101 The amount of credit allowed shall be the total of export cargo charges paid on receiving into the port, handling to a vessel and wharfage. This credit shall not exceed 50% of the income tax reduced by the sum of all other credits, except credits for tax payments. Any excess credit will not be refunded, but can be carried forward for up to five (5) years.

102 Effective January 1, 1999, the law was changed relating to this credit. For January 1, 1994, through December 31, 1998, the maximum cumulative credit that may be claimed by the taxpayer is limited to \$1,000,000. After January 1, 1999, for January 1, 1994, through December 31, 2002, the maximum cumulative credit that may be claimed by the taxpayer is \$1,200,000.

103 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.

104 The credit is not refundable. An expense cannot be used both as a credit and a deduction. If a credit is based on an expense, then the amount of the credit taken must be added back to Mississippi taxable income in the year the credit is used.

105 To apply for this credit: To obtain the credit, the taxpayer must provide to the Mississippi Tax Commission, a statement from the governing authority of the port certifying the amount of charges paid by the taxpayer for which credit is claimed.

106 This credit is authorized under Section 27-7-22.7 of the Mississippi Code of 1972, as amended.

107 This regulation is effective January 1, 2001.

108 (Reserved)

109 (Reserved)